



Journal of the Senate

Number 3—Special Session B

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CALL TO ORDER

The Senate was called to order by President King at 10:00 a.m. A quorum present—38:

Mr. President	Diaz de la Portilla	Peadar
Alexander	Dockery	Posey
Argenziano	Fasano	Pruitt
Aronberg	Garcia	Saunders
Atwater	Geller	Sebesta
Bennett	Haridopolos	Siplin
Campbell	Hill	Smith
Carlton	Jones	Villalobos
Clary	Klein	Wasserman Schultz
Constantine	Lawson	Webster
Cowin	Lee	Wilson
Crist	Lynn	Wise
Dawson	Miller	

Excused: Senators Bullard and Margolis

PRAYER

The following prayer was offered by Senator Argenziano:

Lord, smile upon this company, and make it such that our days and nights are filled with joy, and our lives emit the flavors of flowers and sweet-smelling herbs, and be more elastic, more infinite, more starry. And in our deliberations, make us to be encompassing and visionary, and reflect the courage with which you may fortify us, to continue to do the right thing, even to the extent that will astonish some. Thank you, God. Amen.

PLEDGE

Senator Carlton led the Senate in the pledge of allegiance to the flag of the United States of America.

ADOPTION OF RESOLUTIONS

On motion by Senator Pruitt—

By Senator Pruitt—

SR 12-B—A resolution recognizing Elton Revell for outstanding service to the State of Florida and the Florida Senate.

WHEREAS, Elton Hudson Revell was born in the town of Bonifay in Holmes County, Florida, and

WHEREAS, Elton graduated from Florida High School in Tallahassee, where he set state records in track and field and was a star football quarterback the year Florida High set the current state record for nine straight shut-out games to become the undefeated North Florida Conference Champions, and

WHEREAS, Elton Revell graduated from Florida State University, where he played football with Seminole teammates, such as Fred Bilet-nikoff, Steve Tensi, and FSU President T.K. Wetherell, on the first FSU team to defeat the Florida Gators, in 1964, by a score of 16 to 7, and on the first FSU team to play in the Gator Bowl, defeating the University of Oklahoma by a score of 36 to 19, and

WHEREAS, in his first state job, Elton earned money for college during summer breaks as a fertilizer lab technician at the Florida Department of Agriculture, and

WHEREAS, Elton began a full-time career with the State of Florida in 1967, working at the Department of Education, and

WHEREAS, Elton's career path included working for the Florida Budget Commission and for the Department of Administration and working as Inspector General for the Department of Natural Resources, and

WHEREAS, on August 1, 1984, Elton Revell began 19 years of employment with the Senate Committee on Appropriations, and

WHEREAS, Elton not only directed budget development for the General Government Subcommittee for many years but also played a key role each year in developing the comprehensive state financial plan, and

WHEREAS, Elton served with distinction when promoted to the position of Staff Director of the Senate Committee on Appropriations, ably guiding the Senate through the challenges of the appropriations process, and

WHEREAS, Elton has attained a prominent reputation as an expert in the operations of state government and in the state budgeting process, and has earned the sincere respect, admiration, and affection of legislators for whom he has worked and of subordinate staff he has trained and guided over the years, and

WHEREAS, Elton's tenure with the Senate has been marked by outstanding professionalism, including a strong work ethic, as he always arrived at his desk well before 8 a.m. and often worked well past 5 p.m., even during the interim, and

WHEREAS, Elton's professional life has reflected his deeply-held personal and spiritual ideals, and

WHEREAS, Elton's great respect for the Florida Legislature as an institution impelled him to protect, maintain, and strengthen the integrity of the legislative process, and

WHEREAS, having been trained to craft budgets with green eye-shades, adding machines, and pencils, Elton nevertheless embraced the transition into the age of technology, mastering the computer applications that are now used to produce budgets, and

WHEREAS, Elton's concept of a good vacation has been to spend time at the family farm in Liberty County, putting on a new tin roof, working in his plant nursery, and planting pine trees for future sale, although while mowing the fields on his beloved tractor and accompanied by his favorite herding dog, Tuff, Elton formulated some of his best budget strategies, and

WHEREAS, Elton has imparted his love for the care and enjoyment of horses to his three dear daughters, Stacy, Lisa, and Laurie, and

WHEREAS, Elton is known for his quiet, patient manner, exhibiting all the qualities of a true Southern gentleman, and

WHEREAS, Elton is well-prepared for his retirement, having lived frugally, having built his houses with his own hands, and having saved 95 cents from every dollar he ever earned, and

WHEREAS, Elton Revell, having completed the maximum of 5 years in the Deferred Retirement Option Program, will officially retire from state employment on June 30, 2003, after a distinguished 36-year career, NOW, THEREFORE,

Be It Resolved by the Senate of the State of Florida:

That the Florida Senate extends its congratulations to Elton Revell on the occasion of his retirement from employment with the Senate and thanks him for his faithful service to the officers, members, and staff of this legislative body.

BE IT FURTHER RESOLVED that a copy of this resolution, with the Seal of the Senate affixed, be presented to Elton Revell as a tangible token of the sentiments of the Florida Senate.

—was introduced out of order and read by title. On motion by Senator Pruitt, **SR 12-B** was read the second time in full and adopted.

CO-SPONSORS

All Senators voting yea, not previously shown as co-sponsors, were recorded as co-sponsors of **SR 12-B**.

The vote was:

Yeas—40

Mr. President	Diaz de la Portilla	Peadar
Alexander	Dockery	Posey
Argenziano	Fasano	Pruitt
Aronberg	Garcia	Saunders
Atwater	Geller	Sebesta
Bennett	Haridopolos	Siplin
Bullard	Hill	Smith
Campbell	Jones	Villalobos
Carlton	Klein	Wasserman Schultz
Clary	Lawson	Webster
Constantine	Lee	Wilson
Cowin	Lynn	Wise
Crist	Margolis	
Dawson	Miller	

Nays—None

SPECIAL GUESTS

Senator Pruitt recognized former Senator and Lieutenant Governor Toni Jennings who was present in the chamber and Mr. Revell's daughters, Lisa and Laurie, who were present in the gallery.

REMARKS

On motion by Senator Carlton, the following remarks were ordered spread upon the Journal:

Senator Pruitt: Thank you, Mr. President, for giving the Senate this opportunity to recognize an individual who has dedicated much of his life to this body. Senator Jennings, it is very special to have you on this very great day. Thank you for being here.

I know that every Senator joins with me in honoring the hard work of our Senate professional staff and Appropriations staff who are here today. Their contributions, what they do for us, cannot be overstated. Today we are going to honor someone who I consider an icon. He is truly the southern gentleman of the Legislature—Elton Revell. For most of his adult life, some 36 years, he has dedicated his life to public service to make it better for all of us. One of my greatest pastimes is to be able to

sit down with Elton and hear some of the war stories that he has accumulated over the years. He worked with some of the titans. Many of their portraits are hanging up here now. Not only our Lieutenant Governor, Toni Jennings, but can you imagine putting together a budget with the likes of a Pat Thomas, a Phil Lewis, a Dempsey Barron, or a Lisa Carlton. I would love to have been a fly on the wall during those very great times for Florida. We are a better Senate and we are a better State because of you, Elton. Elton never wanted to take credit. Many of the initiatives that have been implemented in this great State of ours have Elton Revell's handprints all over them. He has never wanted to be in the limelight, never wanted to be on the forefront. Elton's low key and low profile style is a very powerful force behind the scenes that makes this engine run. While we know the public side of Elton Revell, it is going to embarrass him probably, but it is also important to know the personal side of Elton Revell. He has three daughters who are the shining stars of his life—Stacy, Lisa, and Laurie. Two of them are with us today. They're over in the west gallery. Lisa and Laurie, would you please stand? Elton Revell's two daughters.

I caught them in the elevator this morning and one of them mentioned that lately he's been spending more time on his tractor than he has driving his truck.

Of course, I'd be remiss if I didn't talk about his beautiful parents who raised an incredible man. His mother, Willie has passed on. Elton, I know she is looking from the heavens above with the broadest smile, just as broad as yours. I know she is very, very proud. Of course, there is his father, O.Z. Although O.Z.'s life has started to diminish because of the onset of dementia and Alzheimer's, it is enhanced every single day because of the care-giving by Elton and his brother. You see, they have not institutionalized their father. They take turns every week, at night, taking care of their father in the comfort of his home so he can enjoy the final years of his life in peace, knowing that his sons are just a few feet away. You have paid great honor to giving that type of homage to your parents, Elton.

Elton, you have brought incredible honor and dignity to this process. Our seniors are enjoying their golden years a little bit better because of you. I know there are children skipping a little higher in this state because of what you have done throughout your life and what you have done to dedicate your life to this state. We are going to miss you. I would say you have left some large shoes to fill. Nobody will ever fill those shoes. You have been an inspiration, not only to this Senate and every Senator who has walked across your path, but you have paid great honor to every single person in this great State of Florida. We are going to miss you, good friend, and Godspeed.

Senator Carlton: Thank you, Mr. President. Senators that are new to this chamber, Senator Aronberg and perhaps Senator Atwater, have not had the benefits of some of us that have served with Elton for a number of years. There are a few of us who started in this process as staff. That was when I first met Elton, when I served as staff in the Senate. I think that a friend or a confidant is someone that treats you the same no matter who you are or what position you have attained, whether you are their supervisor, their peer, their colleague, or just a lowly staff person.

Senators, when I first met Elton he was in the General Government Subcommittee. I am not even sure if he was the Staff Director of the committee or if he was an analyst on the committee. But I would go into his office and ask him, probably, what he thought were very stupid questions. He never said they were stupid. He would always be there to help guide me so that I could do my job better and that I could be better prepared when questions were asked of me. I think that steady hand and that guiding force are what makes Elton very special to this process. I think it is befitting that in this Special Session, when there are reactionaries all around us, in the hallways and out in the hinterlands, that we, as Senators, always remember that we have staffers like Elton who have given us a guiding hand and a steady force. I think that he has not only influenced the elected members in that fashion, but I would say to all of the staff people in the Senate and in the Legislature that are the young and the up-and-coming, that Elton is a role model for all of you. His constant guiding hand and his steady voice, when things are falling apart, or appear to be falling apart at the seams, are things that, as an elected official, give us comfort that we are heading down the right path. I served as staff to a Representative who was a member of the Minority Party, and then a Senator who was a member of the Majority Party. For staff that serve, at times those elected officials put you in a position of

great responsibility, and then the next year you might be in a different position. No matter what position Elton served in, no matter what his duties or his responsibilities were, he served this chamber with honor and distinction. I think he is a role model and a person other staff in this process could certainly look to and emulate, and always have as their goal. No matter what your position is, you will do it with distinction and you will do it with honor. I think we could learn a lot from his work ethic—the group of girls here from Girls State and all of the staffers in this process could learn a lot also.

Senator McKay called me a couple of years ago and asked me if I would be interested in serving as Appropriations Chair because Senator Horne was moving on to serve as a commissioner. The first thing I said to him is, “I would love to be Appropriations Chair; however, I really do not feel as if I would be able to do this job unless Elton Revell was our Staff Director.” He said, “Well, Elton really wants to retire.” And I said, “Well, why don’t you give me his number and I’ll call him? I will try to convince him otherwise.” I called Elton and we had a nice conversation. I explained to him that this was going to be a new position for me, that I was very nervous about taking on such responsibility with the hard economic times that were predicted ahead and, obviously, a few months later came 9/11. It was without hesitation that, once again, Elton thought of this chamber, and thought of this process, and thought of the people of Florida above himself, and said “yes,” and took on the responsibility of helping me and helping us produce a better product through two or three Special Sessions—I’ve lost count.

He is someone I consider a personal friend. One of the interesting notes about moving from the House to the Senate is those of us that served in the House really got to know our staff. We were housed within the suite that contained our committee and we got to know them on a daily basis. Some of us that came over to the Senate missed really getting to know our staff better. Elton and I spent hours together working on the budget. We probably spent hours together because I had so much to learn and it took him so long to explain it all to me, but he was always patient and was always a steady force. I personally appreciated that, and this process appreciates that, and the people of Florida appreciate that. There is only one problem with Elton, only one negative. And that is, if he doesn’t henceforth call me Lisa, instead of Senator, I take back everything I have said about him.

Elton, we love you. Best of luck.

Senator Klein: Elton, congratulations and thank you for your years of service. We all certainly appreciate what your colleagues have already outlined as special moments and reflections. As the Appropriations Chair was talking about you, he was saying that you worked with so many of the great Presidents. I was listening and thinking about your service to this chamber. I’ve been also thinking about some of the debates we’ve had on the floor this year about the budget. I hear a very clear resonance of the things that you and I have spoken about and that you have spoken about with probably every member of this Senate—and that’s about the budget process. Because in the debates, the Senate President, the Rules Chair and so many of us have been saying “you can’t do a budget going forward unless you know where you come from.” That process of understanding the history, whether it’s a year back, two years back, five years back, or ten years back, helps us understand the experiences, the institutional memory that guides us as we plan for the future.

The second thing that you’ve imparted to me and many others is that in order to plan for the future, you can’t plan one year at a time. You have to look forward. You have to understand the people of Florida, as you do so well. You have to be able to say “Where are we going to be at the end of this next fiscal year, three years, or five years out?” That information is available to us, but I think what I’ve learned from you is that we have to take advantage of the information as we plan forward. I think that’s something that will be the legacy of Elton Revell. I say that in honoring you and I say that as an invitation—an invitation for you to stay with us, continue to guide us with your institutional memory, your vision, your understanding. Help guide the Senate because I feel very confident that the Senate is going to put us back on the right track of the budget process as we take Florida on to greatness in the future.

We talk about term limits and people that are eliminated from the process. We don’t have term limits on staff. We have lost a lot of institutional memory with some of our great Senators that have served so long in this process. To have you not be here with us on a full-time basis will be a loss. You’ve given us the principles. You have given us the guidance

and the ideas and the vision about where we need to go and how we need to get there. Please stay with us; please help us; please guide us. God-speed to you.

President King: Elton, on behalf of a grateful Senate, the hundreds of elected people who have served with you, the citizens of this State who recognize the fact that you have set a standard for public service that far exceeds any of our expectations, I bestow upon you this Florida Senate Resolution with the fondest hopes that your reward in your retirement will be the satisfaction of knowing that what this State is and what our citizens enjoy are, to a large part, due to your efforts and to your guidance. We wish you well in your retirement.

At the request of Senator Wilson—

By Senators Wilson, Siplin, Hill and Bennett—

SR 14-B—A resolution honoring the memory of Judge Wilkie D. Ferguson, Jr.

WHEREAS, Wilkie Demeritte Ferguson, Jr., son of Bahamian parents, was born in Miami on May 11, 1938, received his undergraduate degree from Florida Agricultural and Mechanical University, and served as an officer in the United States Army before earning a law degree from Howard University School of Law in 1968 and launching a legal career as a staff attorney for the Legal Services of Greater Miami, Inc., and

WHEREAS, in a succession of judicial appointments beginning in 1973, Judge Ferguson rose from the Court of Industrial Claims to become the first black jurist on the Miami-Dade Circuit Court and, thereafter, on Florida’s Third District Court of Appeal before he was appointed in 1993 to the United States District Court for the Southern District of Florida, South Florida’s second black to hold a federal judgeship, and

WHEREAS, described as a pioneering jurist and crusading rights activist whose soft-spoken, even-handed courtroom manner cloaked a fierce sense of justice for the underdog, Judge Ferguson is remembered for his first landmark case, in which he found that blacks were systematically excluded from juries of their peers, and is credited with significant rulings that have vastly improved the quality of life for thousands of disabled Florida residents, and

WHEREAS, Judge Ferguson, who was active in numerous professional associations, the recipient of many prestigious awards and honors, and, with his wife, Betty, involved in community campaigns and charitable events, is spoken of as “a gentle man . . . a very kindly man” and a judge “whose life of public service exemplifies the standard for all citizens,” and

WHEREAS, on June 9, 2003, Judge Wilkie D. Ferguson, Jr., quietly and with customary dignity surrendered in his battle against leukemia, having fought a good fight that has left countless Floridians in his debt, NOW, THEREFORE,

Be It Resolved by the Senate of the State of Florida:

That the Florida Senate, with immense pride mixed with extreme sadness, honors the memory of an outstanding citizen and extends its sincere sympathy to the family, friends, and associates of Judge Wilkie D. Ferguson, Jr.

BE IT FURTHER RESOLVED that copies of this resolution, with the Seal of the Senate affixed, be presented to his wife Betty Tucker Ferguson; his daughter, Tawnicia Ferguson-Rowan; and his son, Wilkie D. Ferguson III, as a tangible token of the sentiments of the Florida Senate.

—**SR 14-B** was introduced, read and adopted by publication.

SPECIAL ORDER CALENDAR

The Senate resumed consideration of—

CS for SB 2-B—A bill to be entitled An act relating to medical malpractice; providing legislative findings; amending s. 46.015, F.S.; revising requirements for setoffs against damages in medical malpractice actions if there is a written release or covenant not to sue; creating s. 381.0409, F.S.; providing that creation of the Florida Center for Excellence in Health Care is contingent on the enactment of a public-records

exemption; creating the Florida Center for Excellence in Health Care; providing goals and duties of the center; providing definitions; providing limitations on the center's liability for any lawful actions taken; requiring the center to issue patient safety recommendations; requiring the development of a statewide electronic infrastructure to improve patient care and the delivery and quality of health care services; providing requirements for development of a core electronic medical record; authorizing access to the electronic medical records and other data maintained by the center; providing for the use of computerized physician order entry systems; providing for the establishment of a simulation center for high technology intervention surgery and intensive care; providing for the immunity of specified information in adverse incident reports from discovery or admissibility in civil or administrative actions; providing limitations on liability of specified health care practitioners and facilities under specified conditions; providing requirements for the appointment of a board of directors for the center; establishing a mechanism for financing the center through the assessment of specified fees; requiring the Florida Center for Excellence in Health Care to develop a business and financing plan; authorizing state agencies to contract with the center for specified projects; authorizing the use of center funds and the use of state purchasing and travel contracts for the center; requiring the center to submit an annual report and providing requirements for the annual report; providing for the center's books, records, and audits to be open to the public; requiring the center to annually furnish an audited report to the Governor and Legislature; amending s. 395.004, F.S., relating to licensure of certain health care facilities; providing for discounted medical liability insurance based on certification of programs that reduce adverse incidents; requiring the Office of Insurance Regulation to consider certain information in reviewing discounted rates; creating s. 395.0056, F.S.; requiring the Agency for Health Care Administration to review complaints submitted if the defendant is a hospital; amending s. 395.0193, F.S., relating to peer review and disciplinary actions; providing for discipline of a physician for mental or physical abuse of staff; limiting the liability of certain participants in certain disciplinary actions at a licensed facility; amending s. 395.0197, F.S., relating to internal risk management programs; requiring a system for notifying patients that they are the subject of an adverse incident; requiring risk managers or their designees to give notice; requiring licensed facilities to annually report certain information about health care practitioners for whom they assume liability; requiring the Agency for Health Care Administration and the Department of Health to annually publish statistics about licensed facilities that assume liability for health care practitioners; requiring a licensed facility at which sexual abuse occurs to offer testing for sexually transmitted diseases at no cost to the victim; creating s. 395.1012, F.S.; requiring facilities to adopt a patient safety plan; providing requirements for a patient safety plan; requiring facilities to appoint a patient safety officer and a patient safety committee and providing duties for the patient safety officer and committee; amending s. 456.025, F.S.; eliminating certain restrictions on the setting of licensure renewal fees for health care practitioners; directing the Agency for Health Care Administration to conduct or contract for a study to determine what information to provide to the public comparing hospitals, based on inpatient quality indicators developed by the federal Agency for Healthcare Research and Quality; creating s. 395.1051, F.S.; requiring certain facilities to notify patients about adverse incidents under specified conditions; creating s. 456.0575, F.S.; requiring licensed health care practitioners to notify patients about adverse incidents under certain conditions; amending s. 456.026, F.S., relating to an annual report published by the Department of Health; requiring that the department publish the report to its website; requiring the department to include certain detailed information; amending s. 456.039, F.S.; revising requirements for the information furnished to the Department of Health for licensure purposes; amending s. 456.041, F.S., relating to practitioner profiles; requiring the Department of Health to compile certain specified information in a practitioner profile; establishing a timeframe for certain health care practitioners to report specified information; providing for disciplinary action and a fine for untimely submissions; deleting provisions that provide that a profile need not indicate whether a criminal history check was performed to corroborate information in the profile; authorizing the department or regulatory board to investigate any information received; requiring the department to provide an easy-to-read narrative explanation concerning final disciplinary action taken against a practitioner; requiring a hyperlink to each final order on the department's website which provides information about disciplinary actions; requiring the department to provide a hyperlink to certain comparison reports pertaining to claims experience; requiring the department to include the date that a reported disciplinary action

was taken by a licensed facility and a characterization of the practitioner's conduct that resulted in the action; deleting provisions requiring the department to consult with a regulatory board before including certain information in a health care practitioner's profile; providing for a penalty for failure to comply with the timeframe for verifying and correcting a practitioner profile; requiring the department to add a statement to a practitioner profile when the profile information has not been verified by the practitioner; requiring the department to provide, in the practitioner profile, an explanation of disciplinary action taken and the reason for sanctions imposed; requiring the department to include a hyperlink to a practitioner's website when requested; providing that practitioners licensed under ch. 458 or ch. 459, F.S., shall have claim information concerning an indemnity payment greater than a specified amount posted in the practitioner profile; amending s. 456.042, F.S.; providing for the update of practitioner profiles; designating a timeframe within which a practitioner must submit new information to update his or her profile; amending s. 456.049, F.S., relating to practitioner reports on professional liability claims and actions; revising requirements for a practitioner to report claims or actions that were not covered by an insurer; requiring the department to forward information on liability claims and actions to the Office of Insurance Regulation; amending s. 456.051, F.S.; establishing the responsibility of the Department of Health to provide reports of professional liability actions and bankruptcies; requiring the department to include such reports in a practitioner's profile within a specified period; amending s. 456.057, F.S.; allowing the department to obtain patient records by subpoena without the patient's written authorization, in specified circumstances; amending s. 456.063, F.S.; authorizing regulatory boards or the department to adopt rules to implement requirements for reporting allegations of sexual misconduct; authorizing health care practitioner regulatory boards to adopt rules to establish standards of practice for prescribing drugs to patients via the Internet; amending s. 456.072, F.S.; providing for determining the amount of any costs to be assessed in a disciplinary proceeding; prescribing the standard of proof in certain disciplinary proceedings; amending s. 456.073, F.S.; authorizing the Department of Health to investigate certain paid claims made on behalf of practitioners licensed under ch. 458 or ch. 459, F.S.; amending procedures for certain disciplinary proceedings; providing a deadline for raising issues of material fact; providing a deadline relating to notice of receipt of a request for a formal hearing; amending s. 456.077, F.S.; providing a presumption related to an undisputed citation; amending s. 456.078, F.S.; revising standards for determining which violations of the applicable professional practice act are appropriate for mediation; amending s. 458.320, F.S., relating to financial responsibility requirements for medical physicians; requiring maintenance of financial responsibility as a condition of licensure of physicians; providing for payment of any outstanding judgments or settlements pending at the time a physician is suspended by the Department of Business and Professional Regulation; providing for an alternative method of providing financial responsibility; requiring the department to suspend the license of a medical physician who has not paid, up to the amounts required by any applicable financial responsibility provision, any outstanding judgment, arbitration award, other order, or settlement; amending s. 459.0085, F.S., relating to financial responsibility requirements for osteopathic physicians; requiring maintenance of financial responsibility as a condition of licensure of osteopathic physicians; providing for payment of any outstanding judgments or settlements pending at the time an osteopathic physician is suspended by the Department of Business and Professional Regulation; providing for an alternative method of providing financial responsibility; requiring that the department suspend the license of an osteopathic physician who has not paid, up to the amounts required by any applicable financial responsibility provision, any outstanding judgment, arbitration award, other order, or settlement; providing civil immunity for certain participants in quality improvement processes; defining the terms "patient safety data" and "patient safety organization"; providing for use of patient safety data by a patient safety organization; providing limitations on use of patient safety data; providing for protection of patient-identifying information; providing for determination of whether the privilege applies as asserted; providing that an employer may not take retaliatory action against an employee who makes a good-faith report concerning patient safety data; requiring that a specific statement be included in each final settlement statement relating to medical malpractice actions; providing requirements for the closed claim form of the Office of Insurance Regulation; requiring the Office of Insurance Regulation to compile annual statistical reports pertaining to closed claims; requiring historical statistical summaries; specifying certain information to be included on the closed claim form; amending s. 458.331, F.S., relating to grounds for disciplinary action against a physician; redefining the term "repeated

malpractice"; revising the standards for the burden of proof in an administrative action against a physician; revising the minimum amount of a claim against a licensee which will trigger a departmental investigation; amending s. 459.015, F.S., relating to grounds for disciplinary action against an osteopathic physician; redefining the term "repeated malpractice"; revising the standards for the burden of proof in an administrative action against an osteopathic physician; amending conditions that necessitate a departmental investigation of an osteopathic physician; revising the minimum amount of a claim against a licensee which will trigger a departmental investigation; amending s. 460.413, F.S., relating to grounds for disciplinary action against a chiropractic physician; revising the standards for the burden of proof in an administrative action against a chiropractic physician; providing a statement of legislative intent regarding the change in the standard of proof in disciplinary cases involving the suspension or revocation of a license; providing that the practice of health care is a privilege, not a right; providing that protecting patients overrides purported property interest in the license of a health care practitioner; providing that certain disciplinary actions are remedial and protective, not penal; providing that the Legislature specifically reverses case law to the contrary; requiring the Division of Administrative Hearings to designate administrative law judges who have special qualifications for hearings involving certain health care practitioners; amending s. 461.013, F.S., relating to grounds for disciplinary action against a podiatric physician; redefining the term "repeated malpractice"; amending the minimum amount of a claim against such a physician which will trigger a department investigation; amending s. 466.028, F.S., relating to grounds for disciplinary action against a dentist or a dental hygienist; redefining the term "dental malpractice"; revising the minimum amount of a claim against a dentist which will trigger a departmental investigation; amending s. 624.462, F.S.; authorizing health care providers to form a commercial self-insurance fund; amending s. 627.062, F.S.; providing that an insurer may not require arbitration of a rate filing for medical malpractice; providing additional requirements for medical malpractice insurance rate filings; providing that portions of judgments and settlements entered against a medical malpractice insurer for bad-faith actions or for punitive damages against the insurer, as well as related taxable costs and attorney's fees, may not be included in an insurer's base rate; providing for review of rate filings by the Office of Insurance Regulation for excessive, inadequate, or unfairly discriminatory rates; requiring insurers to apply a discount based on the health care provider's loss experience; amending s. 627.0645, F.S.; excepting medical malpractice insurers from certain annual filings; requiring the Office of Program Policy Analysis and Government Accountability to study and report to the Legislature on requirements for coverage by the Florida Birth-Related Neurological Injury Compensation Association; creating s. 627.0662, F.S.; providing definitions; requiring each medical liability insurer to report certain information to the Office of Insurance Regulation; providing for determination of whether excessive profit has been realized; requiring return of excessive amounts; amending s. 627.357, F.S.; providing guidelines for the formation and regulation of certain self-insurance funds; amending s. 627.4147, F.S.; revising certain notification criteria for medical and osteopathic physicians; requiring prior notification of a rate increase; authorizing the purchase of insurance by certain health care providers; creating s. 627.41491, F.S.; requiring the Office of Insurance Regulation to require health care providers to annually publish certain rate comparison information; creating s. 627.41492, F.S.; requiring the Office of Insurance Regulation to publish an annual medical malpractice report; creating s. 627.41493, F.S.; requiring a medical malpractice insurance rate rollback; providing for subsequent increases under certain circumstances; requiring approval for use of certain medical malpractice insurance rates; providing for a mechanism to make effective the Florida Medical Malpractice Insurance Fund in the event the rollback of medical malpractice insurance rates is not completed; creating the Florida Medical Malpractice Insurance Fund; providing purpose; providing governance by a board of governors; providing for the fund to issue medical malpractice policies to any physician regardless of specialty; providing for regulation by the Office of Insurance Regulation of the Financial Services Commission; providing applicability; providing for initial funding; providing for tax-exempt status; providing for initial capitalization; providing for termination of the fund; providing that practitioners licensed under ch. 458 or ch. 459, F.S., must, as a licensure requirement, obtain and maintain professional liability coverage; creating s. 627.41495, F.S.; providing for consumer participation in review of medical malpractice rate changes; providing for public inspection; providing for adoption of rules by the Financial Services Commission; requiring the Office of Insurance Regulation to order insurers to make rate filings effective January 1, 2004, which reflect the impact of the act; providing criteria

for such rate filing; amending s. 627.912, F.S.; amending provisions prescribing conditions under which insurers must file certain reports with the Department of Health; requiring the Financial Services Commission to adopt by rule requirements for reporting financial information; increasing the limitation on a fine imposed against insurers; creating s. 627.9121, F.S.; requiring certain claims, judgments, or settlements to be reported to the Office of Insurance Regulation; providing penalties; amending s. 766.102, F.S.; revising requirements for health care providers providing expert testimony in medical negligence actions; prohibiting contingency fees for an expert witness; amending s. 766.106, F.S.; providing for application of common law principles of good faith to an insurance company's bad-faith actions arising out of medical malpractice claims; providing that an insurer shall not be held to have acted in bad faith for certain activities during the presuit period and for a specified later period; providing legislative intent with respect to actions by insurers, insureds, and their assigns and representatives; revising requirements for presuit notice and for an insurer's or self-insurer's response to a claim; requiring that a claimant provide the Agency for Health Care Administration with a copy of the complaint alleging medical malpractice; requiring the agency to review such complaints for licensure noncompliance; permitting written questions during informal discovery; amending s. 766.108, F.S.; providing for mandatory mediation; creating s. 766.118, F.S.; providing a maximum amount to be awarded as noneconomic damages in medical negligence actions; providing exceptions; amending s. 766.202, F.S.; redefining the terms "economic damages," "medical expert," "noneconomic damages," and "periodic payment"; amending s. 766.206, F.S.; providing for dismissal of a claim under certain circumstances; requiring the court to make certain reports concerning a medical expert who fails to meet qualifications; amending s. 766.207, F.S.; providing for the applicability of the Wrongful Death Act and general law to arbitration awards; amending s. 768.041, F.S.; revising requirements for setoffs against damages in medical malpractice actions if there is a written release or covenant not to sue; amending s. 768.13, F.S.; revising guidelines for immunity from liability under the "Good Samaritan Act"; amending s. 768.77, F.S.; prescribing a method for itemization of specific categories of damages awarded in medical malpractice actions; amending s. 768.81, F.S.; requiring the trier of fact to apportion total fault solely among the claimant and joint tortfeasors as parties to an action; requiring the Office of Program Policy Analysis and Government Accountability and the Office of the Auditor General to conduct an audit of the health care practitioner disciplinary process and closed claims and report to the Legislature; creating ss. 1004.08 and 1005.07, F.S.; requiring schools, colleges, and universities to include material on patient safety in their curricula if the institution awards specified degrees; creating a workgroup to study the health care practitioner disciplinary process; providing for workgroup membership; providing that the workgroup deliver its report by January 1, 2004; creating s. 766.1065, F.S.; providing for mandatory presuit investigations; providing that certain records be provided to opposing parties; providing subpoena power; providing for sworn depositions of parties and medical experts; providing for mandatory in-person mediation if binding arbitration has not been agreed to; providing for a mandatory presuit screening panel hearing in the event of mediation impasse; creating s. 766.1066, F.S.; creating the Office of Presuit Screening Administration; providing for a database of volunteer panel members; prescribing qualifications for panel membership; providing a funding mechanism; providing panel procedures; providing for determination and recollection of panel findings; providing for disposition of panel findings; providing immunity from liability for panel members; providing appropriations and authorizing positions; providing for construction of the act in pari materia with laws enacted during the 2003 Regular Session or 2003 Special Session A of the Legislature; providing for severability; providing for retroactive application; providing effective dates.

—which was previously considered and amended June 18 with pending **Amendment 27 (903640)** by Senator Jones.

MOTION

On motion by Senator Wasserman Schultz, the rules were waived to allow the following amendment to be considered:

Senators Wasserman Schultz, Jones, Peaden and Saunders offered the following amendment to **Amendment 27** which was moved by Senator Wasserman Schultz and adopted:

Amendment 27A (162978)—On page 2, line 5, after "damage," insert: *mastectomy, loss of reproductive capabilities, hemiplegia,*

MOTION

On motion by Senator Jones, the rules were waived to allow the following amendment to be considered:

Senator Jones moved the following amendment to **Amendment 27** which was adopted:

Amendment 27B (444928)—On page 2, line 13, insert:

(3) The maximum amount of noneconomic damages which may be awarded under this section must be adjusted each year on July 1 to reflect the rate of inflation or deflation as indicated in the Consumer Price Index for All Urban Consumers published by the United States Department of Labor. However, the maximum amount of noneconomic damages which may be awarded may not be less than \$500,000.

Amendment 27 as amended was adopted.

The vote was:

Yeas—24

Mr. President	Crist	Posey
Alexander	Diaz de la Portilla	Pruitt
Argenziano	Fasano	Saunders
Atwater	Garcia	Sebesta
Bennett	Haridopolos	Siplin
Carlton	Jones	Smith
Clary	Lee	Villalobos
Constantine	Peaden	Webster

Nays—14

Aronberg	Geller	Miller
Campbell	Hill	Wasserman Schultz
Cowin	Klein	Wilson
Dawson	Lawson	Wise
Dockery	Lynn	

Senator Bennett moved the following amendment:

Amendment 28 (292830)—On page 126, lines 15-21, delete those lines and insert: *provided for therein; during a period of 180 days thereafter; or during a 90-day period after the filing of an amended medical malpractice complaint alleging new facts previously unknown to the insurer.*

MOTION

On motion by Senator Bennett, the rules were waived to allow the following amendment to be considered:

Senators Bennett and Campbell offered the following substitute amendment which was moved by Senator Bennett and adopted:

Amendment 29 (472300)—On page 126, lines 15-21, delete those lines and insert: *provided for therein; during a period of 210 days thereafter; or during a 90-day period after the filing of an amended medical malpractice complaint alleging new facts previously unknown to the insurer. If a case is set for trial within 1 year after the date of filing the claim, an insurer shall not be held in bad faith if policy limits are tendered 60 days or more prior to the initial trial date. This paragraph does not apply when, based upon information known earlier to the insurance company or its representatives, the insurance company could and should have settled the claim within policy limits if it had been acting fairly and honestly toward the insured and with due regard for the insured's interests during the 210-day period after the 90-day presuit period or in circumstances when a case is set for trial within 1 year after the date of filing the claim, 60 days or more prior to the initial trial date, whichever is earlier.*

Senator Campbell moved the following amendment:

Amendment 30 (981810)(with title amendment)—On page 132, between lines 7 and 8, insert:

(3) Notwithstanding any law to the contrary, the caps on noneconomic damages provided in subsection (1) of this section do not apply to

any incident involving a physician or osteopathic physician who is not in compliance with the financial responsibility requirements set forth in sections 458.320(1)(a),(b),(c), 458.320(2)(a),(b),(c), 459.0085(1)(a), (b),(c), or 459.0085(2)(a),(b),(c), Florida Statutes, respectively.

And the title is amended as follows:

On page 14, line 24, after the second semicolon (;) insert: *providing that caps on noneconomic damages do not apply to any incident involving certain physicians under certain circumstances;*

Senator Campbell moved the following amendment to **Amendment 30** which was adopted:

Amendment 30A (033190)—On page 1, lines 22 and 23, delete those lines and insert: *458.320 and 459.0085, Florida*

Amendment 30 as amended was adopted.

RECONSIDERATION OF AMENDMENT

On motion by Senator Pruitt, the Senate reconsidered the vote by which **Amendment 18 (321656)** was adopted.

MOTION

On motion by Senator Pruitt, the rules were waived to allow the following amendment to be considered:

Senator Pruitt moved the following amendment to **Amendment 18** which was adopted:

Amendment 18B (163014)—In title, on page 8, line 17, through page 9, line 10, delete those lines

Amendment 18 as amended was adopted.

MOTION

On motion by Senator Jones, the rules were waived to allow the following amendment to be considered:

Senator Jones moved the following amendment which was adopted:

Amendment 31 (853990)(with title amendment)—On page 149, between lines 20 and 21, insert:

Section 74. Paragraph (a) of subsection (3) of section 766.209, Florida Statutes, is amended to read:

766.209 Effects of failure to offer or accept voluntary binding arbitration.—

(3) If the defendant refuses a claimant's offer of voluntary binding arbitration:

(a) The claim shall proceed to trial ~~without limitation on damages~~, and the claimant, upon proving medical negligence, shall be entitled to recover prejudgment interest, and reasonable attorney's fees up to 25 percent of the award reduced to present value.

(Redesignate subsequent sections.)

And the title is amended as follows:

On page 16, line 18, after the semicolon (;) insert: *amending s. 766.209, F.S.; revising applicable damages available in voluntary binding arbitration relating to claims of medical negligence;*

On motion by Senator Klein, by two-thirds vote **CS for SB 2-B** as amended was read the third time by title.

On motion by Senator Jones, further consideration of **CS for SB 2-B** as amended was deferred.

INTRODUCTION OF RESOLUTION**First Reading**

On motion by Senator Lee, by unanimous consent—

By Senator Lee—

SCR 16-B—A concurrent resolution extending the 2003 Special Session B of the Legislature under the authority of Article III, Section 3(d) of the State Constitution and providing for adjournment of the Special Session B of the Legislature for more than 72 hours in accordance with the provisions of Article III, Section 3(e) of the State Constitution.

WHEREAS, the four days of the 2003 Special Session B of the Florida Legislature will expire on June 19, 2003, and the necessary tasks of the special session have not been completed, NOW, THEREFORE,

Be It Resolved by the Senate of the State of Florida, the House of Representatives Concurring:

That the 2003 Special Session B of the Florida Legislature is extended to 11:59 p.m., Friday, June 27, 2003, under the authority of Article III, Section 3(d) of the State Constitution.

BE IT FURTHER RESOLVED that the special session so extended shall consider only the following matters:

(1) Senate Bill 2-B and House Bill 63-B, which bills address medical malpractice.

(2) Senate Bills 4-B and 6-B and House Bill 71-B, which bills address public records and public meetings exemptions relating to medical malpractice.

BE IT FURTHER RESOLVED that all other measures in either house are hereby indefinitely postponed.

BE IT FURTHER RESOLVED that, upon adjournment or recess on Thursday, June 19, 2003, either house may reconvene upon the call of its presiding officer.

BE IT FURTHER RESOLVED that, in accordance with the provisions of Article III, Section 3(e) of the State Constitution, permission is hereby granted to the Senate and the House of Representatives to adjourn for a period in excess of seventy-two hours by motion of such chamber.

—was introduced out of order and read by title. On motion by Senator Lee, by two-thirds vote **SCR 16-B** was read the second time in full, adopted by the required constitutional three-fifths vote of the members present and certified to the House. The vote on adoption was:

Yeas—38

Mr. President	Diaz de la Portilla	Peaden
Alexander	Dockery	Posey
Argenziano	Fasano	Pruitt
Aronberg	Garcia	Saunders
Atwater	Geller	Sebesta
Bennett	Haridopolos	Siplin
Campbell	Hill	Smith
Carlton	Jones	Villalobos
Clary	Klein	Wasserman Schultz
Constantine	Lawson	Webster
Cowin	Lee	Wilson
Crist	Lynn	Wise
Dawson	Miller	

Nays—None

SPECIAL ORDER CALENDAR, continued

The Senate resumed consideration of—

CS for SB 2-B—A bill to be entitled An act relating to medical malpractice; providing legislative findings; amending s. 46.015, F.S.; revising requirements for setoffs against damages in medical malpractice actions if there is a written release or covenant not to sue; creating s. 381.0409, F.S.; providing that creation of the Florida Center for Excellence in Health Care is contingent on the enactment of a public-records exemption; creating the Florida Center for Excellence in Health Care; providing goals and duties of the center; providing definitions; providing limitations on the center's liability for any lawful actions taken; requiring the center to issue patient safety recommendations; requiring the development of a statewide electronic infrastructure to improve patient

care and the delivery and quality of health care services; providing requirements for development of a core electronic medical record; authorizing access to the electronic medical records and other data maintained by the center; providing for the use of computerized physician order entry systems; providing for the establishment of a simulation center for high technology intervention surgery and intensive care; providing for the immunity of specified information in adverse incident reports from discovery or admissibility in civil or administrative actions; providing limitations on liability of specified health care practitioners and facilities under specified conditions; providing requirements for the appointment of a board of directors for the center; establishing a mechanism for financing the center through the assessment of specified fees; requiring the Florida Center for Excellence in Health Care to develop a business and financing plan; authorizing state agencies to contract with the center for specified projects; authorizing the use of center funds and the use of state purchasing and travel contracts for the center; requiring the center to submit an annual report and providing requirements for the annual report; providing for the center's books, records, and audits to be open to the public; requiring the center to annually furnish an audited report to the Governor and Legislature; amending s. 395.004, F.S., relating to licensure of certain health care facilities; providing for discounted medical liability insurance based on certification of programs that reduce adverse incidents; requiring the Office of Insurance Regulation to consider certain information in reviewing discounted rates; creating s. 395.0056, F.S.; requiring the Agency for Health Care Administration to review complaints submitted if the defendant is a hospital; amending s. 395.0193, F.S., relating to peer review and disciplinary actions; providing for discipline of a physician for mental or physical abuse of staff; limiting the liability of certain participants in certain disciplinary actions at a licensed facility; amending s. 395.0197, F.S., relating to internal risk management programs; requiring a system for notifying patients that they are the subject of an adverse incident; requiring risk managers or their designees to give notice; requiring licensed facilities to annually report certain information about health care practitioners for whom they assume liability; requiring the Agency for Health Care Administration and the Department of Health to annually publish statistics about licensed facilities that assume liability for health care practitioners; requiring a licensed facility at which sexual abuse occurs to offer testing for sexually transmitted diseases at no cost to the victim; creating s. 395.1012, F.S.; requiring facilities to adopt a patient safety plan; providing requirements for a patient safety plan; requiring facilities to appoint a patient safety officer and a patient safety committee and providing duties for the patient safety officer and committee; amending s. 456.025, F.S.; eliminating certain restrictions on the setting of licensure renewal fees for health care practitioners; directing the Agency for Health Care Administration to conduct or contract for a study to determine what information to provide to the public comparing hospitals, based on inpatient quality indicators developed by the federal Agency for Healthcare Research and Quality; creating s. 395.1051, F.S.; requiring certain facilities to notify patients about adverse incidents under specified conditions; creating s. 456.0575, F.S.; requiring licensed health care practitioners to notify patients about adverse incidents under certain conditions; amending s. 456.026, F.S., relating to an annual report published by the Department of Health; requiring that the department publish the report to its website; requiring the department to include certain detailed information; amending s. 456.039, F.S.; revising requirements for the information furnished to the Department of Health for licensure purposes; amending s. 456.041, F.S., relating to practitioner profiles; requiring the Department of Health to compile certain specified information in a practitioner profile; establishing a timeframe for certain health care practitioners to report specified information; providing for disciplinary action and a fine for untimely submissions; deleting provisions that provide that a profile need not indicate whether a criminal history check was performed to corroborate information in the profile; authorizing the department or regulatory board to investigate any information received; requiring the department to provide an easy-to-read narrative explanation concerning final disciplinary action taken against a practitioner; requiring a hyperlink to each final order on the department's website which provides information about disciplinary actions; requiring the department to provide a hyperlink to certain comparison reports pertaining to claims experience; requiring the department to include the date that a reported disciplinary action was taken by a licensed facility and a characterization of the practitioner's conduct that resulted in the action; deleting provisions requiring the department to consult with a regulatory board before including certain information in a health care practitioner's profile; providing for a penalty for failure to comply with the timeframe for verifying and correcting a practitioner profile; requiring the department to add a statement to a

practitioner profile when the profile information has not been verified by the practitioner; requiring the department to provide, in the practitioner profile, an explanation of disciplinary action taken and the reason for sanctions imposed; requiring the department to include a hyperlink to a practitioner's website when requested; providing that practitioners licensed under ch. 458 or ch. 459, F.S., shall have claim information concerning an indemnity payment greater than a specified amount posted in the practitioner profile; amending s. 456.042, F.S.; providing for the update of practitioner profiles; designating a timeframe within which a practitioner must submit new information to update his or her profile; amending s. 456.049, F.S., relating to practitioner reports on professional liability claims and actions; revising requirements for a practitioner to report claims or actions that were not covered by an insurer; requiring the department to forward information on liability claims and actions to the Office of Insurance Regulation; amending s. 456.051, F.S.; establishing the responsibility of the Department of Health to provide reports of professional liability actions and bankruptcies; requiring the department to include such reports in a practitioner's profile within a specified period; amending s. 456.057, F.S.; allowing the department to obtain patient records by subpoena without the patient's written authorization, in specified circumstances; amending s. 456.063, F.S.; authorizing regulatory boards or the department to adopt rules to implement requirements for reporting allegations of sexual misconduct; authorizing health care practitioner regulatory boards to adopt rules to establish standards of practice for prescribing drugs to patients via the Internet; amending s. 456.072, F.S.; providing for determining the amount of any costs to be assessed in a disciplinary proceeding; prescribing the standard of proof in certain disciplinary proceedings; amending s. 456.073, F.S.; authorizing the Department of Health to investigate certain paid claims made on behalf of practitioners licensed under ch. 458 or ch. 459, F.S.; amending procedures for certain disciplinary proceedings; providing a deadline for raising issues of material fact; providing a deadline relating to notice of receipt of a request for a formal hearing; amending s. 456.077, F.S.; providing a presumption related to an undisputed citation; amending s. 456.078, F.S.; revising standards for determining which violations of the applicable professional practice act are appropriate for mediation; amending s. 458.320, F.S., relating to financial responsibility requirements for medical physicians; requiring maintenance of financial responsibility as a condition of licensure of physicians; providing for payment of any outstanding judgments or settlements pending at the time a physician is suspended by the Department of Business and Professional Regulation; providing for an alternative method of providing financial responsibility; requiring the department to suspend the license of a medical physician who has not paid, up to the amounts required by any applicable financial responsibility provision, any outstanding judgment, arbitration award, other order, or settlement; amending s. 459.0085, F.S., relating to financial responsibility requirements for osteopathic physicians; requiring maintenance of financial responsibility as a condition of licensure of osteopathic physicians; providing for payment of any outstanding judgments or settlements pending at the time an osteopathic physician is suspended by the Department of Business and Professional Regulation; providing for an alternative method of providing financial responsibility; requiring that the department suspend the license of an osteopathic physician who has not paid, up to the amounts required by any applicable financial responsibility provision, any outstanding judgment, arbitration award, other order, or settlement; providing civil immunity for certain participants in quality improvement processes; defining the terms "patient safety data" and "patient safety organization"; providing for use of patient safety data by a patient safety organization; providing limitations on use of patient safety data; providing for protection of patient-identifying information; providing for determination of whether the privilege applies as asserted; providing that an employer may not take retaliatory action against an employee who makes a good-faith report concerning patient safety data; requiring that a specific statement be included in each final settlement statement relating to medical malpractice actions; providing requirements for the closed claim form of the Office of Insurance Regulation; requiring the Office of Insurance Regulation to compile annual statistical reports pertaining to closed claims; requiring historical statistical summaries; specifying certain information to be included on the closed claim form; amending s. 458.331, F.S., relating to grounds for disciplinary action against a physician; redefining the term "repeated malpractice"; revising the standards for the burden of proof in an administrative action against a physician; revising the minimum amount of a claim against a licensee which will trigger a departmental investigation; amending s. 459.015, F.S., relating to grounds for disciplinary action against an osteopathic physician; redefining the term "repeated malpractice"; revising the standards for the burden of proof in an adminis-

trative action against an osteopathic physician; amending conditions that necessitate a departmental investigation of an osteopathic physician; revising the minimum amount of a claim against a licensee which will trigger a departmental investigation; amending s. 460.413, F.S., relating to grounds for disciplinary action against a chiropractic physician; revising the standards for the burden of proof in an administrative action against a chiropractic physician; providing a statement of legislative intent regarding the change in the standard of proof in disciplinary cases involving the suspension or revocation of a license; providing that the practice of health care is a privilege, not a right; providing that protecting patients overrides purported property interest in the license of a health care practitioner; providing that certain disciplinary actions are remedial and protective, not penal; providing that the Legislature specifically reverses case law to the contrary; requiring the Division of Administrative Hearings to designate administrative law judges who have special qualifications for hearings involving certain health care practitioners; amending s. 461.013, F.S., relating to grounds for disciplinary action against a podiatric physician; redefining the term "repeated malpractice"; amending the minimum amount of a claim against such a physician which will trigger a department investigation; amending s. 466.028, F.S., relating to grounds for disciplinary action against a dentist or a dental hygienist; redefining the term "dental malpractice"; revising the minimum amount of a claim against a dentist which will trigger a departmental investigation; amending s. 624.462, F.S.; authorizing health care providers to form a commercial self-insurance fund; amending s. 627.062, F.S.; providing that an insurer may not require arbitration of a rate filing for medical malpractice; providing additional requirements for medical malpractice insurance rate filings; providing that portions of judgments and settlements entered against a medical malpractice insurer for bad-faith actions or for punitive damages against the insurer, as well as related taxable costs and attorney's fees, may not be included in an insurer's base rate; providing for review of rate filings by the Office of Insurance Regulation for excessive, inadequate, or unfairly discriminatory rates; requiring insurers to apply a discount based on the health care provider's loss experience; amending s. 627.0645, F.S.; excepting medical malpractice insurers from certain annual filings; requiring the Office of Program Policy Analysis and Government Accountability to study and report to the Legislature on requirements for coverage by the Florida Birth-Related Neurological Injury Compensation Association; creating s. 627.0662, F.S.; providing definitions; requiring each medical liability insurer to report certain information to the Office of Insurance Regulation; providing for determination of whether excessive profit has been realized; requiring return of excessive amounts; amending s. 627.357, F.S.; providing guidelines for the formation and regulation of certain self-insurance funds; amending s. 627.4147, F.S.; revising certain notification criteria for medical and osteopathic physicians; requiring prior notification of a rate increase; authorizing the purchase of insurance by certain health care providers; creating s. 627.41491, F.S.; requiring the Office of Insurance Regulation to require health care providers to annually publish certain rate comparison information; creating s. 627.41492, F.S.; requiring the Office of Insurance Regulation to publish an annual medical malpractice report; creating s. 627.41493, F.S.; requiring a medical malpractice insurance rate rollback; providing for subsequent increases under certain circumstances; requiring approval for use of certain medical malpractice insurance rates; providing for a mechanism to make effective the Florida Medical Malpractice Insurance Fund in the event the rollback of medical malpractice insurance rates is not completed; creating the Florida Medical Malpractice Insurance Fund; providing purpose; providing governance by a board of governors; providing for the fund to issue medical malpractice policies to any physician regardless of specialty; providing for regulation by the Office of Insurance Regulation of the Financial Services Commission; providing applicability; providing for initial funding; providing for tax-exempt status; providing for initial capitalization; providing for termination of the fund; providing that practitioners licensed under ch. 458 or ch. 459, F.S., must, as a licensure requirement, obtain and maintain professional liability coverage; creating s. 627.41495, F.S.; providing for consumer participation in review of medical malpractice rate changes; providing for public inspection; providing for adoption of rules by the Financial Services Commission; requiring the Office of Insurance Regulation to order insurers to make rate filings effective January 1, 2004, which reflect the impact of the act; providing criteria for such rate filing; amending s. 627.912, F.S.; amending provisions prescribing conditions under which insurers must file certain reports with the Department of Health; requiring the Financial Services Commission to adopt by rule requirements for reporting financial information; increasing the limitation on a fine imposed against insurers; creating s. 627.9121, F.S.; requiring certain claims, judgments, or settlements

to be reported to the Office of Insurance Regulation; providing penalties; amending s. 766.102, F.S.; revising requirements for health care providers providing expert testimony in medical negligence actions; prohibiting contingency fees for an expert witness; amending s. 766.106, F.S.; providing for application of common law principles of good faith to an insurance company's bad-faith actions arising out of medical malpractice claims; providing that an insurer shall not be held to have acted in bad faith for certain activities during the presuit period and for a specified later period; providing legislative intent with respect to actions by insurers, insureds, and their assigns and representatives; revising requirements for presuit notice and for an insurer's or self-insurer's response to a claim; requiring that a claimant provide the Agency for Health Care Administration with a copy of the complaint alleging medical malpractice; requiring the agency to review such complaints for licensure noncompliance; permitting written questions during informal discovery; amending s. 766.108, F.S.; providing for mandatory mediation; creating s. 766.118, F.S.; providing a maximum amount to be awarded as noneconomic damages in medical negligence actions; providing exceptions; amending s. 766.202, F.S.; redefining the terms "economic damages," "medical expert," "noneconomic damages," and "periodic payment"; amending s. 766.206, F.S.; providing for dismissal of a claim under certain circumstances; requiring the court to make certain reports concerning a medical expert who fails to meet qualifications; amending s. 766.207, F.S.; providing for the applicability of the Wrongful Death Act and general law to arbitration awards; amending s. 768.041, F.S.; revising requirements for setoffs against damages in medical malpractice actions if there is a written release or covenant not to sue; amending s. 768.13, F.S.; revising guidelines for immunity from liability under the "Good Samaritan Act"; amending s. 768.77, F.S.; prescribing a method for itemization of specific categories of damages awarded in medical malpractice actions; amending s. 768.81, F.S.; requiring the trier of fact to apportion total fault solely among the claimant and joint tortfeasors as parties to an action; requiring the Office of Program Policy Analysis and Government Accountability and the Office of the Auditor General to conduct an audit of the health care practitioner disciplinary process and closed claims and report to the Legislature; creating ss. 1004.08 and 1005.07, F.S.; requiring schools, colleges, and universities to include material on patient safety in their curricula if the institution awards specified degrees; creating a workgroup to study the health care practitioner disciplinary process; providing for workgroup membership; providing that the workgroup deliver its report by January 1, 2004; creating s. 766.1065, F.S.; providing for mandatory presuit investigations; providing that certain records be provided to opposing parties; providing subpoena power; providing for sworn depositions of parties and medical experts; providing for mandatory in-person mediation if binding arbitration has not been agreed to; providing for a mandatory presuit screening panel hearing in the event of mediation impasse; creating s. 766.1066, F.S.; creating the Office of Presuit Screening Administration; providing for a database of volunteer panel members; prescribing qualifications for panel membership; providing a funding mechanism; providing panel procedures; providing for determination and recodation of panel findings; providing for disposition of panel findings; providing immunity from liability for panel members; providing appropriations and authorizing positions; providing for construction of the act in pari materia with laws enacted during the 2003 Regular Session or 2003 Special Session A of the Legislature; providing for severability; providing for retroactive application; providing effective dates.

—which was previously considered and amended this day.

On motion by Senator Jones, **CS for SB 2-B** as amended was passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—32

Mr. President	Diaz de la Portilla	Posey
Argenziano	Fasano	Pruitt
Aronberg	Garcia	Saunders
Atwater	Haridopolos	Sebesta
Bennett	Hill	Siplin
Campbell	Jones	Smith
Carlton	Klein	Villalobos
Clary	Lawson	Wasserman Schultz
Constantine	Lee	Webster
Crist	Miller	Wilson
Dawson	Peaden	

Nays—6

Alexander	Dockery	Lynn
Cowin	Geller	Wise

On motion by Senator Jones—

CS for SB 4-B—A bill to be entitled An act relating to public records and meetings; creating s. 381.04091, F.S.; providing that patient records obtained by, and other documents identifying a patient by name and contained in patient safety data held by, the Florida Center for Excellence in Health Care are exempt from public-record requirements; providing that meetings held by the center at which such information is discussed are exempt from public-meeting requirements; authorizing the release of information under specified circumstances, including the release to a health care research entity or licensed health insurer; providing for future legislative review and repeal under the Open Government Sunset Review Act of 1995; providing a statement of public necessity; providing a contingent effective date.

—was read the second time by title.

On motion by Senator Klein, by two-thirds vote **CS for SB 4-B** was read the third time by title, passed by the required constitutional two-thirds vote of the members present and certified to the House. The vote on passage was:

Yeas—38

Mr. President	Diaz de la Portilla	Peaden
Alexander	Dockery	Posey
Argenziano	Fasano	Pruitt
Aronberg	Garcia	Saunders
Atwater	Geller	Sebesta
Bennett	Haridopolos	Siplin
Campbell	Hill	Smith
Carlton	Jones	Villalobos
Clary	Klein	Wasserman Schultz
Constantine	Lawson	Webster
Cowin	Lee	Wilson
Crist	Lynn	Wise
Dawson	Miller	

Nays—None

On motion by Senator Jones—

SB 6-B—A bill to be entitled An act relating to public records; amending s. 395.0198, F.S.; which provides an exemption from public-records requirements for the information contained in the notification of an adverse incident provided to the Agency for Health Care Administration by a facility licensed under ch. 395, F.S.; specifying information covered under the exemption; authorizing the use of the information as part of certain disciplinary proceedings; reenacting the exemption and removing the repeal thereof scheduled under the Open Government Sunset Review Act of 1995; providing for construction of the act in pari materia with laws enacted during the 2003 Regular Session and 2003 Special Session A of the Legislature; providing an effective date.

—was read the second time by title.

On motion by Senator Klein, by two-thirds vote **SB 6-B** was read the third time by title, passed by the required constitutional two-thirds vote of the members present and certified to the House. The vote on passage was:

Yeas—36

Mr. President	Clary	Garcia
Alexander	Constantine	Geller
Argenziano	Crist	Haridopolos
Aronberg	Dawson	Hill
Atwater	Diaz de la Portilla	Jones
Bennett	Dockery	Klein
Carlton	Fasano	Lawson

Lee	Pruitt	Villalobos
Lynn	Saunders	Wasserman Schultz
Miller	Sebesta	Webster
Peaden	Siplin	Wilson
Posey	Smith	Wise
Nays—2		
Campbell	Cowin	

On motion by Senator Fasano—

HB 85-B—A bill to be entitled An act relating to biomedical research; amending s. 215.5602, F.S.; renaming the Florida Biomedical Research Program as the James and Esther King Biomedical Research Program; amending ss. 20.435 and 215.5601, F.S., to conform; providing an appropriation; providing for construction of the act in pari materia with laws enacted during the 2003 Regular Session or the 2003 Special Session A of the Legislature; providing an effective date.

—was read the second time by title.

On motion by Senator Klein, by two-thirds vote **HB 85-B** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38

Mr. President	Diaz de la Portilla	Peaden
Alexander	Dockery	Posey
Argenziano	Fasano	Pruitt
Aronberg	Garcia	Saunders
Atwater	Geller	Sebesta
Bennett	Haridopolos	Siplin
Campbell	Hill	Smith
Carlton	Jones	Villalobos
Clary	Klein	Wasserman Schultz
Constantine	Lawson	Webster
Cowin	Lee	Wilson
Crist	Lynn	Wise
Dawson	Miller	

Nays—None

REPORTS OF COMMITTEES

The Committee on Rules and Calendar submits the following bill to be placed on the Special Order Calendar for Thursday, June 19, 2003: **HB 85-B**

Respectfully submitted,
Tom Lee, Chair

The Committee on Appropriations recommends the following pass: **HB 85-B**

The bill was placed on the calendar.

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

RETURNING MESSAGES—FINAL ACTION

The Honorable James E. “Jim” King, Jr., President

I am directed to inform the Senate that the House of Representatives has adopted SCR 16-B by the required constitutional three-fifths vote of the members of the House of Representatives present and voting.

John B. Phelps, Clerk

The bill in the foregoing message was ordered enrolled.

The Honorable James E. “Jim” King, Jr., President

I am directed to inform the Senate that the House of Representatives has concurred in Senate amendment(s) and passed **HB 23-B**, as amended.

John B. Phelps, Clerk

ENROLLING REPORTS

SCR 16-B has been enrolled, signed by the required Constitutional Officers and filed with the Secretary of State on June 19, 2003.

Faye W. Blanton, Secretary

CORRECTION AND APPROVAL OF JOURNAL

The Journal of June 18 was corrected and approved.

CO-SPONSORS

Senator Peaden—CS for SB 2-B

VOTES RECORDED

Senator Margolis was recorded as voting “yea” on the following bill which was considered this day: **CS for SB 2-B**.

RECESS

On motion by Senator Lee, the Senate recessed at 2:51 p.m. for the purpose of holding committee meetings and conducting other Senate business to reconvene upon call of the President.

ADJOURNMENT

The Senate did not reconvene so the Special Session was adjourned sine die at 11:59 p.m., Friday, June 27.